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Attorneys for Defendant Reuben Beityakov and Ari Katz

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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SIGNATURE BANK,

:
Plaintiff, 08 Civ. 3893 (NRB)

- against -

AHAVA FOOD CORP., LEWIS COUNTY DAIRY
CORP., ST. LAWRENCE FOOD CORP. d/b/a PRIMO
FOODS, YONI REALTY, LLC, SCHWARTZ AND
SONS QUALITY DISTRIBUTORS, INC., MOISE
BANAYAN, ANA BANAYAN a/k/a CHANA
BANAYAN, REBECCA BANAYAN a/k/a REBECCA
BARIMYAN a/k/a REBECCA BANAYAN-
LIEBERMAN, FARIBORZ BANAYAN a/k/a AARON
BANAYAN, RUBEN BEITYAKOV, ARI KATZ,
AHAVA OF CALIFORNIA, LLC d/b/a AHAVA
NATIONAL FOOD DISTRIBUTOR and NORTH
COUNTRY MANUFACTURING, and JOHN DOE
COMPANIES 1 through 10,

:
Defendants.
:
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**ANSWER OF DEFENDANT
: REUBEN BEITYAKOV AND
: ARI KATZ TO AMENDED
: VERIFIED COMPLAINT**

: **Jury Trial Demanded**

Defendants Ruben Beityakov and Aril Katz ("Defendants") by their undersigned counsel,

answer the amended verified complaint (“the Complaint”) of plaintiff Signature Bank (“Plaintiff”) as follows:

1. Defendants lack information to admit or deny the allegations contained in paragraphs 1-26, 29-105, 107-109.
2. Defendants deny the allegations contained in paragraphs 106, 111-119, 121-129, 131-140, 142-144, 146-149, 151-153, 155-160, 162-164, 166-171 of the Complaint.
3. Defendants admit the allegations contained in paragraphs 27 and 28 of the Complaint.
4. In responding to paragraph 110 of the Complaint, Defendants reallege and incorporate by reference herein their responses to each and every allegation contained in paragraphs 1 through 109 of this answer as pleaded above.
5. In responding to paragraph 120 of the Complaint, Defendants reallege and incorporate by reference herein their responses to each and every allegation contained in paragraphs 1 through 119 of this answer as pleaded above.
6. In responding to paragraph 130 of the Complaint, Defendants reallege and incorporate by reference herein their responses to each and every allegation contained in paragraphs 1 through 129 of this answer as pleaded above.
7. In responding to paragraph 141 of the Complaint, Defendants reallege and incorporate by reference herein their responses to each and every allegation contained in paragraphs 1 through 140 of this answer as pleaded above.
8. In responding to paragraph 145 of the Complaint, Defendants reallege and

incorporate by reference herein their responses to each and every allegation contained in paragraphs 1 through 144 of this answer as pleaded above.

9. In responding to paragraph 150 of the Complaint, Defendants reallege and incorporate by reference herein their responses to each and every allegation contained in paragraphs 1 through 149 of this answer as pleaded above.

10. In responding to paragraph 154 of the Complaint, Defendants reallege and incorporate by reference herein their responses to each and every allegation contained in paragraphs 1 through 153 of this answer as pleaded above.

11. In responding to paragraph 161 of the Complaint, Defendants reallege and incorporate by reference herein their responses to each and every allegation contained in paragraphs 1 through 160 of this answer as pleaded above.

12. In responding to paragraph 165 of the Complaint, Defendants reallege and incorporate by reference herein their responses to each and every allegation contained in paragraphs 1 through 164 of this answer as pleaded above.

First Affirmative Defense

13. The Complaint, and each cause of action thereof, fails to state a cause of action against Defendants upon which relief may be granted.

Second Affirmative Defense

14. Plaintiff is barred from recovery in whole or in part because it lacks clean hands.

Third Affirmative Defense

15. Plaintiff is barred from recovery under the doctrine of unilateral mistake of material

facts.

Fourth Affirmative Defense

16. Plaintiff is barred from recovery under the doctrine of mutual mistake of material facts.

Fifth Affirmative Defense

17. Plaintiff is barred from recovery in whole or in part under the doctrine of offset.

Sixth Affirmative Defense

18. Plaintiff is barred from recovery in whole or in part under the doctrine of consent.

Seventh Affirmative Defense

19. Plaintiff is barred from recovery in whole or in part under the doctrine of laches.

Eighth Affirmative Defense

20. Plaintiff cannot proceed with this action in the absence of an indispensable party, Moise Banayan, as to whom this action is stayed by virtue of his bankruptcy.

Ninth Affirmative Defense

21. Plaintiff failed to mitigate its damages.

Tenth Affirmative Defense

22. Plaintiff diminished the value of its collateral in whole or in part.

WHEREFORE, defendants pray for relief as follows:

1. That plaintiff take nothing by its Complaint and that the Complaint be dismissed with prejudice;
2. That defendants be awarded their reasonable attorney's fees and costs; and
3. For any other relief that this Court deems just and proper.

Dated: Beverly Hills, California
July 7, 2008

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FOODS, YONI REALTY, LLC, SCHWARTZ AND	:
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LIEBERMAN, FARIBORZ BANAYAN a/k/a	:
AARON BANAYAN, RUBEN BEITYAKOV,	:
ARI KATZ, AHAVA OF CALIFORNIA, LLC d/b/a	:
AHAVA NATIONAL FOOD DISTRIBUTOR	:
and NORTH COUNTRY MANUFACTURING, and	:
JOHN DOE COMPANIES 1 through 10	:
	:
Defendants.	:
-----X	

08 Civ. 3893 (NRB) (MHD)

Jury Trial Demanded

Defendants Ruben Beityakov and Ari Katz demand a trial by jury.

Dated: Beverly Hills, California
July 3, 2008

ROBERT W. HIRSH & ASSOCIATES

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